



ATTORNEYS AT LAW

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By ECF Filing

Magistrate Judge A. Kathleen Tomlinson
United States District Court – Eastern District New York
100 Federal Plaza, Courtroom 910
Central Islip, New York 11722-9014

Re: Peter Capone, et al. v. Mark Goldman, et al. 09 Civ. 1208(SJF)

Dear Mag. Judge Tomlinson:

My firm represents the plaintiffs in this action. I am writing in response to the letter-motion, dated September 8, 2009, submitted by defendant Jeffrey Daniels.

Mr. Daniels seeks to quash the portion of the Subpoena to the Trustee in the Goldan, LLC ("Goldan") bankruptcy that seeks production of Mr. Daniels' financial statements and tax returns. There is no basis whatsoever to the application. Moreover, the Court should note that Mr. Daniels, to date, has failed to produce a single document in response to plaintiffs' Document Demands. Mr. Daniels served a timely Response, which asserted various objections, but, despite several assurances that the documents will be produced, nothing has yet been delivered.

With respect to the motion to quash, I have told Mr. Daniels on numerous occasions that if he has any concern about the confidentiality of any document, all he has to do is offer a reasonable Confidentiality Order. Mr. Daniels has, to date, failed to do so.

In addition, the financial statements are highly relevant. Mr. Daniels professes to have no knowledge as to the Ponzi scheme through which his partner, Mark Goldman, ran their jointly owned real estate company, Goldan, LLC, and it therefore will be especially illuminating to have documents that show how much money Mr. Daniels was receiving from Goldan's illicit activities. This essential information should also be reflected on Mr. Daniels' tax returns, which will also show Mr. Daniels' interests in the various entities that owned the real estate projects and entities that were used to defraud plaintiffs out of as much as \$12,000,000. It is not genuine for Mr. Daniels to assert that there is no relevance to "the records of income paid to me".

Magistrate Judge A. Kathleen Tomlinson
September 11, 2009
Page 2

I respectfully submit that Your Honor should deny Mr. Daniels' letter-motion to quash any portion of the plaintiffs' Subpoena to the Trustee in the Goldan bankruptcy. In addition, unless Mr. Daniels' finally produces the documents called for in plaintiffs' Document Demand, plaintiffs will make an application to Your Honor.

Thank you.

Respectfully,



Mark R. Kook

cc: Jeffrey C. Daniels, Esq. (by e-mail)
Fred S. Kantrow, Esq. (by e-mail)
David Blansky, Esq. (by e-mail)